

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Richmond Division

ePLUS INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:09CV620 (REP)
	)	
LAWSON SOFTWARE, INC.,	)	
	)	
	)	
Defendant.	)	

**DEFENDANT'S REVISED PROPOSED JURY VERDICT FORM**

You must consider each question of this Special Verdict Form and answer the questions according to the instructions.

**ACCUSED PRODUCTS: INFRINGEMENT**

**S3 Procurement** (Inventory Control, Requisition, and Purchase Order Modules)

- 1) Did ePlus prove by a preponderance of the evidence that the S3 Procurement software combination infringes claim 1 of the '516 patent, either directly or indirectly?

Yes     \_\_\_\_\_ (Finding is in favor of ePlus)

No       \_\_\_\_\_ (Finding is in favor of Lawson)

- 2) Did ePlus prove by a preponderance of the evidence that the S3 Procurement software combination infringes claim 2 of the '516 patent, either directly or indirectly?

Yes     \_\_\_\_\_ (Finding is in favor of ePlus)

No       \_\_\_\_\_ (Finding is in favor of Lawson)

- 3) Did ePlus prove by a preponderance of the evidence that the S3 Procurement software combination infringes claim 6 of the '516 patent, either directly or indirectly?

Yes     \_\_\_\_\_ (Finding is in favor of ePlus)

No       \_\_\_\_\_ (Finding is in favor of Lawson)

- 4) Did ePlus prove by a preponderance of the evidence that the S3 Procurement software combination infringes claim 9 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

Requisition Self-Service together with the S3 Procurement software combination (referred to below as "Requisition Self-Service")

- 5) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 3 of the '683 patent?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 6) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 28 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 7) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 1 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 8) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 2 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 9) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 6 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 10) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 9 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 11) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 21 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 12) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 22 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 13) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 29 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 14) Did ePlus prove by a preponderance of the evidence that the Requisition Self-Service software infringes claim 1 of the '172 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

S3 Procurement Punchout together with the S3 Procurement software combination (referred to below as "S3 Procurement Punchout")

- 15) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 3 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 16) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 26 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 17) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 28 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 18) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 29 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 19) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 1 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 20) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 2 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 21) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 6 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 22) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 9 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 23) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 21 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 24) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 22 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 25) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 29 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 26) Did ePlus prove by a preponderance of the evidence that the S3 Procurement Punchout software infringes claim 1 of the '172 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

S3 EDI in Combination with S3 Procurement, Requisition Self-Service, and/or S3 Procurement Punchout (referred to below as "S3 EDI")

- 27) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 3 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 28) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 26 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 29) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 28 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 30) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 29 of the '683 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 31) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 1 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 32) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 2 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 33) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 6 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 34) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 9 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 35) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 21 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 36) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 22 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 37) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 29 of the '516 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

- 38) Did ePlus prove by a preponderance of the evidence that the S3 EDI software infringes claim 1 of the '172 patent, either directly or indirectly?

Yes \_\_\_\_\_ (Finding is in favor of ePlus)

No \_\_\_\_\_ (Finding is in favor of Lawson)

**Invalidity**

NOTE: It is Lawson's position that, in view of the Supreme Court's recent decision to grant *certiorari* to review the issue, and in view of the status of ePlus's patents as rejected at various stages at the Patent and Trademark Office in reexaminations and the exclusion of the reexaminations from the jury's consideration, that the correct evidentiary burden for invalidity is no longer "clear and convincing evidence" but should be changed to "a preponderance of the evidence." Lawson thus takes the position that the highlighted language in each question below should be changed to "a preponderance of the evidence."

38) Did Lawson prove by **clear and convincing evidence** that claim 3 of the '683 patent is invalid?

Yes     \_\_\_\_\_ (Finding is in favor of Lawson)

No     \_\_\_\_\_ (Finding is in favor of ePlus)

39) Did Lawson prove by **clear and convincing evidence** that claim 26 of the '683 patent is invalid?

Yes     \_\_\_\_\_ (Finding is in favor of Lawson)

No     \_\_\_\_\_ (Finding is in favor of ePlus)

40) Did Lawson prove by **clear and convincing evidence** that claim 28 of the '683 patent is invalid?

Yes     \_\_\_\_\_ (Finding is in favor of Lawson)

No     \_\_\_\_\_ (Finding is in favor of ePlus)

41) Did Lawson prove by **clear and convincing evidence** that claim 29 of the '683 patent is invalid?

Yes     \_\_\_\_\_ (Finding is in favor of Lawson)

No     \_\_\_\_\_ (Finding is in favor of ePlus)

42) Did Lawson prove by **clear and convincing evidence** that claim 1 of the '516 patent is invalid?

Yes     \_\_\_\_\_ (Finding is in favor of Lawson)

No     \_\_\_\_\_ (Finding is in favor of ePlus)



43) Did Lawson prove by **clear and convincing evidence** that claim 2 of the '516 patent is invalid?

Yes ☐ (Finding is in favor of Lawson)

No ☐ (Finding is in favor of ePlus)

44) Did Lawson prove by **clear and convincing evidence** that claim 6 of the '516 patent is invalid?

Yes ☐ (Finding is in favor of Lawson)

No ☐ (Finding is in favor of ePlus)

45) Did Lawson prove by **clear and convincing evidence** that claim 9 of the '516 patent is invalid?

Yes ☐ (Finding is in favor of Lawson)

No ☐ (Finding is in favor of ePlus)

46) Did Lawson prove by **clear and convincing evidence** that claim 21 of the '516 patent is invalid?

Yes ☐ (Finding is in favor of Lawson)

No ☐ (Finding is in favor of ePlus)

47) Did Lawson prove by **clear and convincing evidence** that claim 22 of the '516 patent is invalid?

Yes ☐ (Finding is in favor of Lawson)

No ☐ (Finding is in favor of ePlus)

48) Did Lawson prove by **clear and convincing evidence** that claim 29 of the '516 patent is invalid?

Yes ☐ (Finding is in favor of Lawson)

No ☐ (Finding is in favor of ePlus)

49) Did Lawson prove by **clear and convincing evidence** that claim 1 of the '172 patent is invalid?

Yes \_\_\_\_\_ (Finding is in favor of Lawson)

No \_\_\_\_\_ (Finding is in favor of ePlus)

*You are FINISHED. Please sign the verdict form and return it to the bailiff.*